



**CIVILIAN PERSONNEL
MANAGEMENT GUIDE FOR
MANAGEMENT
OFFICIALS DURING
CONTINGENCIES
AND EMERGENCIES**

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Introduction

DoD's involvement in contingencies and emergencies has increased and changed significantly in recent years. The Department's role in support of humanitarian missions and disaster relief has grown, and the increase in the number and severity of acts of terrorism has required a much greater commitment of both military personnel and civilian employees. Many of today's crisis situations occur within the United States.

The ultimate success of DoD's mission accomplishment in contingencies and emergencies rests with local management officials, from base commanders through senior- and mid-level managers to first line supervisors. In addition to planning and preparedness responsibilities to ensure a smooth transition to contingency and emergency situations, management officials must ensure sustainment of the civilian workforce throughout the crisis and a smooth transition back to regular operations upon completion of the extraordinary mission requirements. Knowledge of the statutes, regulations, and policies that apply, as well as an understanding of the authorities and limitations contained therein, is crucial.

This guide is designed to assist management officials in exercising their authorities, fulfilling their responsibilities, and carrying out their management functions during contingencies and emergencies. It addresses a number of human resource management areas to which special provisions apply during such situations, citing the pertinent references and providing a short summary of the special provisions. References are listed under each section for ease of use by management officials and, as a result, may be repeated a number of times. The guide is intended for use in making initial decisions during crisis situations and understanding the additional flexibilities that may be available. When the circumstances of a particular situation raise questions or concerns about applicability and interpretation of guidance contained herein, or require more detailed information upon which to make a decision, management officials should refer to the cited references or discuss the matter with their human resources office as soon as practicable. The most up-to-date guidance for any particular situation will also be posted as soon as possible on the CPMS website site under Hot Topics. The CPMS website site is at www.cpms.osd.mil.

Part 1 provides guidance that is generally applicable to the DoD civilian workforce regardless of duty station geographic location. It is applicable to crisis situations arising in connection with homeland defense as well as to those arising in overseas areas. It applies to nonappropriated fund employees as well as appropriated fund employees, unless stated otherwise. It does not apply to contractor employees or foreign nationals hired directly or indirectly.

Part 2 provides guidance covering the special circumstances associated with contingencies and emergencies in foreign areas and, unless stated otherwise, applies to nonappropriated fund employees as well as appropriated fund employees. It also contains specific sections covering foreign national employees, contractor employees, and the unique circumstances related to Noncombatant Evacuation and Repatriation.

All information pertaining to the Nonappropriated Fund work force should be cross-referenced to DoD 1401.1-M, Personnel Policy Manual for Nonappropriated Fund Instrumentalities, and DoD 1400.25-M, Department of Defense Civilian Personnel Manual (CPM), Chapter 1400, Nonappropriated Fund Management.

The information in this guide does not address special provisions found in title 32 for the employment of National Guard military technicians.

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PART ONE

HOMELAND DEFENSE

AND

GENERAL APPLICATION

Planning and Preparedness

References:

- (a) DoD Directive 1400.31, "DoD Civilian Workforce Contingency and Emergency Planning and Execution," April 28, 1995
- (b) DoD Instruction 1400.32, "DoD Civilian Workforce Contingency and Emergency Planning Guidelines and Procedures," April 24, 1995
- (c) DoD Directive 1100.18, "Wartime Manpower Mobilization Planning," January 31, 1986
- (d) DoD Instruction 1100.19, "Wartime Manpower Mobilization Planning Policies and Procedures," February 20, 1986

References (a) and (b) establish policies, assign responsibilities, and prescribe procedures for planning, preparedness, and management of the DoD civilian workforce in times of contingency and emergency. References (c) and (d) provide detailed planning policies and procedures for wartime manpower mobilization and deployment to support operations in overseas theaters.

Contingencies and emergencies may include, but are not limited to, participation in support of humanitarian missions, disaster relief, restoring order in civil disorders, drug interdiction operations, acts of terrorism, and war. Management officials may be responsible for supporting emergency and contingency operations in overseas theaters or may be required to respond to internal crisis situations. While the policies and procedures of references (a) through (d) apply to any contingency or emergency situation, there are additional considerations for management officials when dealing with internal crisis situations.

In times of natural disasters or acts of terrorism, for example, there may be an immediate and unanticipated disruption within and around an organization's physical location. Individuals may not be able to report for duty, communications equipment may be destroyed or ineffective, information systems may be inaccessible. Established policies and procedures may be impossible to implement, or may require significant modification. While management officials must ensure that their contingency and emergency planning addresses such circumstances to the maximum extent possible, there may well be unexpected requirements that must be addressed.

For the civilian workforce, during any contingency or emergency, it is critical that management officials follow some very basic steps to ensure that all employees and their families are kept abreast of the situation and the impact it will have on them. Supervisors should maintain a readily accessible paper copy of up-to-date emergency locator information on each employee to include, as a minimum, the

name and mailing address of an emergency contact, along with a day and night telephone number. This information should be reviewed, verified, and updated whenever a change occurs or at least annually to ensure that it remains current. Employees should also be encouraged to include up-to-date emergency contact information in their Official Personnel Files. Each office should also periodically reinforce emergency evacuation procedures and have a predetermined place to meet so that a proper accounting of employees may be conducted. Employees going on TDY should be instructed as to whom to contact at their home office in the event that a contingency or emergency occurs at the TDY location.

Supervisors should post on the organization's official bulletin board, or other conspicuous location, the telephone number for the supporting human resources office should questions arise on leave, health or life insurance, or death and injury benefits. Supervisors are encouraged to maintain an emergency file consisting of organizational charts, recall information, points of contact in the Human Resources Office, contact information on local Employee Assistance Programs, Office of Workman's Compensation instructions (and forms CA-1 and CA-16), a copy of this guide, and any agency and local guidance regarding next-of-kin notification procedures. Employees should be reminded periodically to review and update their personal information such as designation of beneficiary forms. Supervisors should not attempt to discuss benefits or entitlements with employees or family members during a contingency or emergency situation, nor should they contact the designated emergency point of contact without first collaborating with the supporting human resources office.

Work Assignments

Reference:

(a) Section 7106(a)(2) of title 5, United States Code

Reference (a) provides management officials with the statutory right to direct employees and to assign work to them. Subsection (D) of this reference specifically gives management officials the right to take whatever actions may be necessary to carry out the agency mission during emergencies. Thus, management officials have a clear statutory authority to reassign, relocate, or detail employees and to make temporary work assignments, as necessary, to meet the needs dictated by the crisis situation. Employees who disagree with any such assignments must comply at the time the direction is given, with any appeals or grievances to be filed and acted upon at the earliest practicable time.

For bargaining unit employees, applicable Federal Labor Relations Authority case law has established that the right to assign work includes the right to determine the particular duties and work that will be assigned, the particular employees to whom the duties and work will be assigned, when such assignments will occur, and when the work will be performed. Included in this right is the authority to determine the particular qualifications and skills needed to perform the work and to make judgments as to whether employees meet those qualifications requirements.

Work Schedules

References:

- (a) Section 6101 of title 5, United States Code
- (b) Title 5, Code of Federal Regulations, Section 610.121
- (c) Section 6131 of title 5, United States Code

Full-time employees within DoD have a basic administrative workweek of 40 hours, unless they are working under an approved alternate work schedule (AWS) exception, such as a flexible or compressed schedule. For employees on a regular tour of duty, references (a) and (b) require that each employee's tour of duty be scheduled in advance of the administrative workweek over a period of not less than one week, consisting of five consecutive workdays, with the same working hours in each day. During contingencies and emergencies, management officials have the authority under subsection (a)(3) of reference (a) to change work schedules to meet mission requirements without regard to these scheduling requirements. This authority should be used only when necessary, and, to the extent possible, affected employees should be informed of the reasons for the schedule changes as well as the expected duration of such changes.

Management officials also have the authority, under reference (c), to terminate the AWS whether flexible or compressed work schedules when they determine that continuation of such schedules would have an adverse impact. This authority may be exercised in connection with contingencies and emergencies, but should be used only when essential.

For an alternative work schedule covered by a negotiated agreement with bargaining unit employees, section (c)(3)(A) of reference (c) requires that the agreement be reopened to seek termination of the schedule involved. Since the Federal Employees Flexible and Compressed Work Schedules Act of 1982 intends the establishment and termination of alternative work schedules to be fully negotiable, management cannot assert a management right as a basis for terminating an alternative schedule that has been negotiated. Before reopening an agreement to seek termination of an alternative work schedule, management should review the existing agreement to determine whether it already provides sufficient leeway to make adjustments required to accomplish the mission dictated by the contingency or emergency.

If the agreement must be reopened, and there is insufficient time to complete bargaining before the alternative schedule must be terminated, management must establish that the agency's ability to effectively and efficiently carry out its mission is being impeded by the lengthy negotiations. Although bargaining is not

completed before the schedule is terminated, negotiations must be continued after the termination has been effected. Any agreement reached under these circumstances should be applied retroactively, if practical.

If impasse is reached in bargaining with respect to terminating an alternative work schedule, the impasse is presented to the Federal Service Impasses Panel for resolution. The Panel is required to take final action in favor of the agency determination if there is evidence that an alternative work schedule has caused adverse agency impact. The Panel encourages the agency to present information on the methodology used to collect the evidence to support its determination that there is adverse agency impact. The Panel also expects that the agency would rely on evidence from the time period when there is adverse impact, rather than on evidence collected after the fact.

Documenting Civilian Personnel Actions

References:

- (a) DoD Directive 3020.26, May 26, 1995
- (b) Modern DCPDS Contingency Management Manual, March 26, 2001

The Defense Civilian Personnel Data System (DCPDS) is the Department's automated human resource information system, and records and maintains personnel transactions generated by managers and personnel offices throughout DoD. Each civilian personnel Regional Service Center (RSC) has a DCPDS database that stores human resources information for serviced organizations and employees. Personnel actions are initiated by management and processed by the RSC in an electronic transaction that generates a Notification of Personnel Action that is filed in the employee's Official Personnel Folder (also maintained by the RSC). The RSC database is the database of record for serviced employees, and provides the necessary electronic feeds to payroll for pay and benefits. In accordance with references (a) and (b), Components are required to develop Continuity of Operations Plans (COOP) for RSC operations, including disaster recovery for DCPDS operations. These plans provide for manual processing of personnel actions until the automated system is restored. Managers should consult with their local personnel offices to obtain procedures for processing personnel actions during such events. When the purpose of the personnel action is to appoint an individual to the Federal government, managers should consult with the RSC prior to the appointment.

During contingencies and emergencies, when normal administrative procedures may not be feasible and DCPDS may not be accessible, managers must ensure that personnel actions taken on civilian employees are appropriately documented and recorded, either in handwritten format or a recoverable electronic format. All such actions will be processed electronically in DCPDS once normal operations are restored.

For actions taken on employees, managers should ensure that the following information, at a minimum, is recorded:

- Employee name
- Social Security number (or other official identifier)
- Employee home address and phone number (for new hires)
- Date of birth (for new hires)
- Organizational information (department, division, branch, etc.)
- Position information (title, occupational series, grade level)

- Nature/description of personnel action (appointment, detail reassignment, etc.)
- Effective date of action
- Name and organization of manager or official approving the action

Once normal operations are restored, managers should work through regular administrative channels to ensure that personnel actions are processed through DCPDS.

Hiring Flexibilities

References:

- (a) Title 5, Code of Federal Regulations, Section 213.3102(i)(3)
- (b) Title 5, Code of Federal Regulations, Section 213.3102(i)(2)
- (c) Section 3326 of title 5, United States Code
- (d) Title 5, Code of Federal Regulations, Section 317.601

During contingencies and emergencies, the Office of Personnel Management (OPM) may delegate a number of hiring flexibilities to affected agencies. These authorities may be delegated by OPM based on its own determination of need or may be in response to requests from agencies having an immediate need to hire additional staff. When a contingency or emergency affects more than one DoD activity, or otherwise has broad impact, the Defense Civilian Personnel Management Service will initiate a request for delegation of these hiring flexibilities on behalf of all affected DoD organizations. For contingencies and emergencies affecting a single DoD organization or having only local impact, management officials of that organization should pursue any needed flexibilities through their local supporting human resources office.

The emergency hiring flexibilities that OPM may delegate include:

Excepted Appointments for Temporary Emergency Need (Up to 1 Year). When using this authority, provided under reference (a), agencies determine the qualifications required for appointment. Mandatory placement programs, including DoD's Priority Placement Program (PPP), normally will not apply to these appointments. Since appointments under this authority are temporary not to exceed one year, employees so appointed are not eligible for benefits such as health insurance, life insurance, or the Thrift Savings Plan.

Waiver of Repayment of Voluntary Separation Incentive Pay (VSIP). Under normal circumstances, an employee who takes a buyout upon separation from Federal service must repay it upon returning to Federal service within five years of the original separation. OPM may waive this repayment requirement for temporary reemployment of former Federal employees. Local human resources offices will be able to provide advice on applicability of this waiver on a case-by-case basis.

Waiver of Dual Compensation Limits. Retirees who return to Federal service normally have their salaries reduced by the amount of their annuity. OPM may waive dual compensation limits for temporary reemployment of former Federal employees who have retired. This waiver allows Federal retirees to receive their

annuity and all appropriate pay. This authority may be delegated by OPM, with the authority for redelegation.

Emergency Need Appointments to Senior Level (SL) Positions. OPM may grant authority to make temporary appointments to SL positions for up to 1 year, using the excepted appointment authority of reference (a).

There are also emergency hiring flexibilities that do not require OPM authorization. These include:

Excepted Appointments for 30-Day Critical Need. Under the provisions of reference (b), agencies may make 30-day appointments and may extend them for an additional 30 days. Agencies also determine the qualifications required for appointment under this authority. Mandatory placement programs, including the PPP, normally will not apply. Once again, employees appointed under this authority are temporary for less than 1 year and are not eligible for benefits.

Waiver of 180-Day Limitation of Retired Military Members. Reference (c) provides that a retired member of the armed forces may be appointed to a position in the civil service during the first 180 days following retirement if a state of national emergency exists. The President makes the declaration of a national emergency by proclamation or other public notice, which is then published in the *Federal Register*. When the President makes such a determination, Department of Defense organizations will be notified through the official chain of command.

SES Limited Appointments. Agencies have the authority, under reference (d), to make SES Limited Appointments of career employees without the use of merit staffing procedures. Two types of SES Limited Appointments are used to address short-term staffing needs: (1) Limited Emergency Appointments made for up to 18 months, to meet bona-fide, unanticipated, urgent needs; and (2) Limited Term Appointments, for up to 3 years, to positions the duties of which will expire in 3 years or less. Agencies are provided a pool of limited appointment authorities equal to three percent of their SES position allocation. These appointments are not renewable and are limited on the total time an individual can serve under a combination of the limited term and limited emergency appointments (no more than an aggregate of 36 months in a 48-month period). These authorities may be used during contingencies and emergencies as determined by the Defense Components.

Administrative Dismissal of Employees

References:

- (a) DoD 1400.25-M, "DoD Civilian Personnel Manual," December 1996, Subchapter (SC) 610

Reference (a) provides Commanders and Heads of Activities with the authority to close all or part of an activity and to administratively excuse the civilian workforce. This authority may be used when there is an unanticipated curtailment of operations or unforeseen interruptions of transportation or building services. While this authority has traditionally been used in connection with extreme weather and natural disasters, it is intended to enable management officials to address all situations involving severe conditions or disruptions of normal operations. Thus, it is equally applicable throughout the broad range of contingencies and emergencies with which DoD deals.

When exercising administrative dismissal authority, management officials have the discretion to excuse all or any portion of the civilian workforce. Specific organizations, such as those responsible for snow removal, fire protection, or physical security, may be excluded. Section SC610.3.4 of reference (a) requires that these employees be identified in advance and notified that they are expected to report for, or remain at, work during emergency situations unless otherwise notified. In addition, specific employees may be designated as mission essential, based on the circumstances of a particular contingency or emergency situation, and excluded from the group dismissal. To the extent possible, these employees should also be identified and notified in advance. Even with the best planning, however, such advance notification will not always be possible and is not mandatory. Administrative dismissal authority is discretionary on the part of management officials and is not an employee entitlement.

Administrative dismissal authority is intended for use during short periods of time, normally not to exceed three consecutive workdays. Section SC610.3.3.3 of reference (a) prescribes procedures that must be followed when the group dismissal is approved beyond three days. Regardless of the duration of a particular group dismissal, management officials may need to change designations of emergency or mission essential employees. While this should be addressed through standard operating procedures to the extent possible, management officials have the discretion to change such designations throughout the course of the contingency or emergency.

Section SC610.3.2.4 of reference (a) provides that, in geographical areas where contingency or emergency situations affect more than one Defense activity, the Commander or Activity Head employing the largest number of civilian employees shall make the determination as to whether an emergency exists and assess the appropriateness of authorizing administrative dismissal of employees. Decisions by other Commanders and Heads of Activities in the area that are at variance with this decision must be coordinated with the commander or head of activity responsible for making the area-wide decision. Coordination with non-DoD Federal installations in the area should be undertaken through Federal Executive Boards or similar organizations of Federal officials.

Within the Washington, DC, metropolitan area (i.e., duty stations within the Washington Capital Beltway), management officials should follow the Washington, DC, Emergency Dismissal or Closure Procedures, as administered by the DoD Component or Washington Headquarters Services, as appropriate.

Excused Absence

Reference:

- (a) DoD 1400.25-M, "DoD Civilian Personnel Manual," December 1996, Subchapter (SC) 630

Reference (a) authorizes management officials, consistent with delegations of authority by DoD Component Heads, to excuse employees from duty for brief periods of time without loss of pay or charge to other paid leave. Excused absence differs from administrative dismissal in that it is to be authorized on a case-by-case basis for individual employees.

While Section SC630.7.4 of reference (a) lists the more common situations in which excused absence may be granted, that list is not intended to be all-inclusive. Circumstances associated with contingency and emergency situations may well warrant use of excused absence authority. Examples of such circumstances include the inability to report for duty because of disruptions in transportation services or personal situations related to the contingency or emergency situation requiring the employee's immediate attention away from the duty station.

Section SC630.7.2 of reference (a) provides that authority to grant excused absence should be delegated to the lowest practical level. Management officials should refer to their DoD Component's policies to determine the specific level to which this authority has been delegated. During a contingency or emergency, management officials having approval authority should review all requests for excused absence and make individual approval decisions based on the specific circumstances of each employee's situation. Management officials also have the authority to approve excused absence without a specific request from an employee when they determine that the employee's situation warrants it.

Premium Pay Limitations

References:

- (a) Section 5547 of title 5, United States Code
- (b) Title 5, Code of Federal Regulations, Section 550.106(a)
- (c) DoD 1400.25-M, "DoD Civilian Personnel Manual," December 1996, Subchapter (SC) 550, Section SC550.3.1.1
- (d) Title 5, Code of Federal Regulations, Section 551.501(d)

Reference (a) limits an employee's aggregate rate of pay (including base pay and premium pay) for any pay period to the greater of the biweekly rate of pay for GS-15, step 10, or Level V of the Executive Schedule. This limitation requires that an employee's basic pay plus premium pay for overtime work (including compensatory time off), night work, standby duty, and work on Sundays or holidays be calculated each pay period. No premium payments may be made when an employee's pay exceeds the biweekly pay limitation. Reference (a) provides further, however, that this biweekly limitation does not apply to work performed in connection with an emergency that involves a direct threat to life or property or work that is critical to the mission of the agency. In such emergencies, General Schedule employees, including law enforcement officers, performing work directly related to an emergency situation may receive premium pay as long as the annual total (basic pay plus premium pay) does not exceed the greater of the annual rate for GS-15, step 10, or Level V of the Executive Schedule. By administrative extension, the emergency authority to apply an annual limitation instead of a biweekly one also applies to nonappropriated fund payband employees.

Under regulations prescribed by the Office of Personnel Management in reference (b), Heads of Agencies are delegated the authority to determine the existence of an emergency. Within DoD, this authority has been further delegated through reference (c) to officials who exercise personnel appointing authority (normally the head of an installation or activity). The authority is delegated through, and subject to the authority of, the DoD Components.

Management officials exercising this authority must identify the employees covered by the waiver. Employing activities must then notify the servicing payroll offices in writing. Waivers granted under this authority are to be terminated when the work in connection with the emergency has been completed.

Employees paid under the Federal Wage System are not subject to the premium pay limitations of reference (a). Fair Labor Standards Act overtime is not subject to the limitation on premium pay (reference (d)).

Hostile Fire Pay

References:

- (a) Section 5949 of title 5, United States Code
- (b) Section 5925 of title 5, United States Code
- (c) Section 5928 of title 5, United States Code

Reference (a) provides authority to pay hostile fire pay to civilian employees. The authority allows payment of \$150.00 per month to a civilian employee who:

- (1) was subject to hostile fire or explosion of hostile mines;
- (2) was on duty in an area in which the employee was in imminent danger of being exposed to hostile fire or explosion of hostile mines and in which, during the period on duty in that area, other civilian employees were subject to hostile fire or explosion of hostile mines; or
- (3) was killed, injured, or wounded by hostile fire, explosion of a hostile mine, or any other hostile action.

The Principle Deputy Under Secretary of Defense (Personnel and Readiness) has the authority to designate areas where DoD civilian employees are subject to hostile fire. Within those designated areas, local Commanders or Heads of Installations may certify that an employee, or group of employees, meets one of the criteria above and thereby authorize hostile fire pay. An employee who is receiving a post differential under reference (b) for exposure to political violence or is receiving a danger pay allowance under reference (c) is not eligible for hostile fire pay.

Hostile fire pay is not prorated. Any employee certified by the appropriate management official will receive the full monthly payment. Additionally, an employee who was injured or wounded by hostile fire, and who was hospitalized for the treatment of the injury or wound may be paid hostile fire pay for not more than three additional months during a related hospital stay.

Restoration of Annual Leave

References:

- (a) Section 6304 of title 5, United States Code
- (b) DoD 1400.25-M, "DoD Civilian Personnel Manual," December 1996, Subchapter (SC) 630, Section SC630.4

Reference (a) establishes limits on the amount of annual leave that employees may carry over from one leave year to the next. Leave in excess of these limits is normally forfeited and lost by the affected employees. When an employee is prevented from using scheduled annual leave, however, because of an exigency of the public business, subsection (d)(1)(B) of reference (a) authorizes restoration of the forfeited leave for future use by the employee. Within DoD, reference (b) requires that Heads of DoD Components delegate responsibility for determining the existence of an exigency to the lowest practical level. Those who have been delegated this authority are also responsible for establishing the termination date of the exigency. This termination date establishes the time frame within which employees must use any restored leave.

During a contingency or emergency of broad proportion, the determination that an exigency exists may be made by the President, at the highest levels of DoD, or by a DoD Component Head. In such cases, guidance for application of the leave restoration provisions will be issued on a DoD-wide or Component-wide basis. In other instances, those with delegated authority should make the appropriate determination. It is the supervisor's responsibility to determine which employees are eligible for leave restoration.

Death and Injury Benefits

References:

- (a) Chapter 81 of title 5, United States Code
- (b) DoD 1400.25-M, "DoD Civilian Personnel Manual," December 1996, Subchapter (SC) 810
- (c) Section 8424(d) of title 5, United States Code
- (d) TSP Bulletin 98-14
- (e) Public Law 104-208, Omnibus Consolidated Appropriations Act of 1997, Section 651
- (f) Section 8134(a) of title 5, United States Code
- (g) Section 8133(f) of title 5, United States Code
- (h) Joint Travel Regulations, Volume 2, Chapter 6, Part B

Reference (a) provides specific benefits in connection with the death or disability of a civilian employee who sustains a personal injury in the performance of official duties (nonappropriated fund employees are covered by Subchapter II of reference (a)). Under normal circumstances, management officials are required to ensure that an injured employee receives immediate medical care and is provided with the necessary Office of Workers Compensation Programs (OWCP) forms. In the case of a traumatic injury, management must provide the employee with a form CA-16, Authorization for Examination and/or Treatment and ask the employee to complete form CA-1, Claim for Traumatic Injury. If an employee is unable to complete the CA-1, the supervisor completes the form on the employee's behalf. Upon receipt of the employee's completed forms, the appropriate management official must complete the official supervisor's report on the reverse side of the CA-1 and forward all documentation to the activity's designated Injury Compensation Program Administrator. As provided by reference (b), employees sustaining traumatic injuries are also informed that they are entitled to Continuation of Pay (COP) for absences up to 45 calendar days due to disability or to obtain medical treatment.

If an employee dies in the performance of official duties, Section SC810.4.2.6.2.1 of reference (b) requires that the supervisor immediately report the death to OWCP by completing a form CA-6, Official Superior's Report of Employee's Death, and forwarding it to the Injury Compensation Program Administrator for the activity.

When an employee is injured during a contingency or emergency, the most important management action is to ensure that the individual receives medical care as soon as possible. If the required forms cannot be obtained, or circumstances prevent immediate completion, the activity's Injury Compensation Program

Administrator should be contacted at the earliest opportunity and provided a status report on all injured or deceased employees. The supervisor and Program Administrator should then work together at the earliest opportunity to ensure that all necessary forms are completed and submitted to OWCP.

The family members of an employee who dies in the performance of official duties may be entitled to survivor benefits under section 8102 of reference (a). The supervisor should assist family members in claiming survivors' benefits by providing them with the forms discussed below, as provided under Sections SC810.4.2.4 and SC810.4.2.5 of reference (b). Spouses and dependent children of the deceased employee should file a Form CA-5, Claim for Compensation for Widow, Widower, and/or Children. Other family members who were wholly or partially dependent on the deceased employee may claim compensation by filing a Form CA-5b, Claim for Compensation by Parents, Brothers, Sisters, Grandparents, and Grandchildren. The supervisor and the Injury Compensation Program Administrator should assist the employee's family members in obtaining and completing the necessary forms at the family member's earliest convenience, and ensure that the completed forms are submitted to OWCP as quickly as possible.

If there is a surviving spouse and/or children, these beneficiaries may elect a retirement benefit in lieu of injury compensation benefits. The retirement benefit to which a survivor would be entitled depends on a variety of factors, including the retirement system under which the employee was covered (CSRS, FERS, etc.), relationship of the survivor to the deceased employee, and length of the deceased employee's creditable service. Since the decision as to which benefit a survivor elects is very important and may involve consideration of several complex factors, the supporting human resources office should provide detailed explanation and counseling before any decision is made. If the injury compensation benefit is elected, the beneficiary may receive a lump-sum payment from the relevant retirement system equal to the deceased employee's contributions.

In addition to any injury compensation or retirement payments to which surviving family members may be entitled, the benefits listed below may be payable to designated beneficiaries. The order of precedence for payment of these benefits is specified in reference (c) and listed at the end of this section for convenience. Since all pay and benefits matters can be complex and involve a number of potential issues, supporting human resources offices should be contacted and asked to advise and assist beneficiaries.

Federal Employees Group Life Insurance (FEGLI). For employees enrolled in FEGLI, the death benefit is payable regardless of the cause of death, with the amount of the payment determined by the amount for which the employee was insured on the date of death. The Office of Federal Employees Group Life

Insurance (OFEGLI) will pay benefits under \$7,500 in a single check mailed directly to each beneficiary. Beneficiaries entitled to payments of \$7,500 or more will automatically receive a checkbook for a Money Market Option Account. Payment is made approximately 4-6 weeks after receipt of the required forms and documentation. Supporting human resources offices will assist beneficiaries in the completion and submission of this information. FEGLI death benefits are not taxable, but any interest earned is taxable.

Federal Employees Health Benefits (FEHB). If the deceased employee was enrolled for self and family coverage at the time of death, a family member who receives a survivor annuity may continue FEHB coverage. Survivors who elect injury compensation benefits in lieu of retirement benefits may also continue FEHB coverage.

Thrift Savings Plan (TSP). Beneficiaries are entitled to any money in the deceased employee's TSP account. Reference (d) provides details about methods of payment, tax withholding, timing of payments, and investment options.

Unpaid Compensation. Any pay and allowances due an employee at the time of death, including pay for unused hours of accrued annual leave, are payable in a lump sum to the deceased employee's beneficiaries.

Death Gratuity Payment. Reference (e) authorizes a death gratuity payment when a civilian employee dies from a traumatic injury sustained in the line of duty on or after August 2, 1990. This includes an employee who dies after separation from service, if the death is the result of a traumatic injury sustained in the line of duty. The gratuity is payable only when the Office of Workers Compensation Programs has approved the death claim. The gratuity is \$10,000, but is reduced by the amount of any funeral expenses paid under reference (f) and any payment under reference (g) for reimbursement of the costs of termination of the decedent's status as an employee of the United States. Since these payments are normally \$800 and \$200, respectively, the Death Gratuity Payment generally would be about \$9,000 after the \$1,000 reduction.

Social Security. Family members of deceased employees may also be entitled to survivor benefits through the Social Security program. Family members should be encouraged to contact the Social Security Administration for application procedures. Payments under the Social Security program are not automatic; survivors must file a claim to receive benefits. Most applications can be completed by telephone by calling 1-800-772-1213.

Order of Precedence for Retirement, FEGLI, and TSP Benefits and Unpaid Compensation. If there is no living designated beneficiary, benefits under these

programs will be paid to the first person(s) listed below who is alive on the date title to payment arises:

1. The widow or widower.
2. If none, the child or children in equal shares, with the share of any deceased child distributed to the descendants of that child.
3. If none, any surviving parents.
4. If none, the executor or administrator of the estate.
5. If none, the next of kin who is entitled under the laws of the state in which the deceased employee was domiciled on the date of death.

Death Cases and Allowable Expenses. A DoD component must provide assistance and pay for the transportation of the remains of an employee (or any authorized dependent as appropriate) who dies while traveling or while assigned at an overseas permanent duty station. Information pertaining to notification requirements and allowable travel expenses in death cases is outlined in reference (h).

Performance Appraisal

Reference:

- (a) DoD 1400.25-M, "DoD Civilian Personnel Manual," December 1996
Subchapter (SC) 430

Reference (a) prescribes the requirements for performance appraisal programs within DoD. Section SC430.API.4.4.1 of reference (a) requires the establishment of an official appraisal period during which performance shall be monitored and for which a rating of record shall be prepared. Programs must normally designate appraisal periods so employees are provided a rating of record on an annual basis.

Section SC430.API.4.4.2 of reference (a) provides that a rating of record shall be given to each employee as soon as practicable after the end of the appraisal period. It provides further that, when a rating cannot be prepared at the time specified in the appraisal program, the period shall be extended and a rating of record prepared as soon as practicable thereafter. During contingencies and emergencies, management officials may extend the rating period and delay the resulting rating of record as necessary and appropriate. While prior notification to employees is not required during contingencies and emergencies, they should be officially informed of any extensions or delays immediately after the decision is made.

Collective Bargaining

Reference:

(a) Section 7106(a)(2)(D) of title 5, United States Code

As a general rule, the Federal Labor Relations Authority (FLRA) has held that, prior to implementing a change of employment conditions of bargaining unit employees, an agency is required to provide the exclusive representative with notice and an opportunity to bargain over those aspects of the change that are within the duty to bargain. Reference (a), however, provides that an agency may take whatever actions necessary to carry out its mission during emergencies. In such cases, the FLRA has recognized that there may be instances where the agency may implement a change due to an emergency situation and bargain with the union on a post-implementation basis.

During a contingency or emergency, management officials may take actions requiring an immediate response even if conditions of employment of bargaining unit members are affected. In such cases, the union should be advised of the immediate changes being made and offered an opportunity for post-implementation bargaining at the earliest possible date. Any agreement reached during this bargaining should be applied retroactively, if practical.

Management officials must be careful when considering unilateral changes under emergency conditions. In each instance, the official making the decision must determine that the emergency necessitates immediate action. If an unfair labor practice charge is filed, the official making the decision must be prepared to establish that an “overriding exigency” required an immediate response. All aspects of the decision-making process should be fully documented throughout, and the documentation should be retained until post-implementation bargaining is completed.

It is more likely during a contingency or emergency that exigencies will arise that do not require an immediate response, but do require a response from the agency in the near future that will affect conditions of employment. Under these circumstances, there should be adequate time to notify the union about the impending change in conditions of employment and an opportunity to bargain. However, there may not be adequate time to complete the bargaining process before it is necessary to implement the change. In such cases, management officials may determine that a unilateral change is necessary, before the bargaining process is completed, for the necessary functioning of the agency. Even when a change is made based on mission necessity; management officials are still obligated to bargain with the union on a post-implementation basis.

DoD's labor unions have been very cooperative during past emergencies. We fully expect this to continue, especially if management keeps the lines of communication open. When implementing changes due to overriding exigencies or mission necessities, advise union officials of the change to be made, explain how the change is connected to operations resulting from the contingency or emergency, determine when post-implementation bargaining will be conducted, and emphasize that any agreement reached will be applied retroactively, if practical.

Gate Inspections

References:

- (a) DoD Directive 5200.8, "Security of DoD Installations and Resources," April 25, 1991
- (b) Section 7106(a)(1) of title 5, United States Code

The statutory authority to conduct gate inspections at DoD facilities is contained in Section 797 of title 50, United States Code (Section 21 of the Internal Security Act of 1950). The Secretary of Defense has implemented that statute through reference (a).

Reference (a) assigns responsibility to the Secretaries of the Military Departments and Heads of Other DoD Components for establishing policies and procedures to conduct gate inspections. It also designates, by position, a comprehensive list of commanding officers who shall issue necessary regulations to protect and secure the places under their command. Those Commanders must conspicuously post and enforce the orders and regulations they issue. Regulations issued under this authority must enhance the protection or security of a military facility or property subject to DoD jurisdiction or a military conveyance, to include ingress or egress to such places.

In general, regulations issued under reference (a) provide for gate inspections at closed bases, installations whose entrances are protected from routine public access. These inspections may be directed to every vehicle or follow a random pattern, though certain vehicles may be more likely to be searched than others. The use of drug dogs, bomb dogs, and various types of mechanical devices is permissible. The occupants of the vehicles and individuals entering by bicycle, motorbikes, motorcycles, or on foot are also subject to inspection.

Gate inspections are not limited to perimeter gates, but may also be employed at other secure places within the DoD reservation. Common examples include fenced areas, flight lines, buildings, parts of buildings, and conveyances.

Federal courts, the Federal Labor Relations Authority (FLRA), and the Merit Systems Protection Board recognize the unique status of Federal agencies and military installations, and the need for these entities to implement internal security requirements. The courts have long recognized that persons who enter a military base may have to surrender some of their individual rights so that military security can be maintained. An inspection of persons and vehicles at the gate of a military base does not have to comply with Fourth Amendment standards on a public street. FLRA decisions have established that an agency's right to determine

internal security practices includes the right to determine the policies, practices, and investigative techniques that are necessary to safeguard its operations, personnel, and physical property against internal and external risks.

Each DoD Component has specific policies and guidelines related to gate inspections. Management officials should refer to these and their activity's local policies and guidelines when planning and conducting gate inspections.

Employees who refuse to consent to an inspection of their person or vehicle could be denied access to the installation. These employees, who are prevented by their own actions from reporting to work during their scheduled duty hours, could suffer a loss of leave or pay, and may also be subject to disciplinary actions, depending on the specific circumstances and the applicable government-wide, Component, and local policies and regulations.

PART TWO

SPECIAL PROVISIONS

FOR

FOREIGN AREAS

Planning and Preparedness

References:

- (a) DoD Directive 1400.31, "DoD Civilian Workforce Contingency and Emergency Planning and Execution," April 28, 1995
- (b) DoD Instruction 1400.32, "DoD Civilian Workforce Contingency and Emergency Planning Guidelines and Procedures," April 24, 1995
- (c) DoD Directive 1100.18, "Wartime Manpower Mobilization Planning," January 31, 1986
- (d) DoD Instruction 1100.19, "Wartime Manpower Mobilization Planning Policies and Procedures," February 20, 1986
- (e) DoD Directive 1404.10, "Emergency-Essential (E-E) DoD U.S. Citizen Civilian Employees," April 10, 1992
- (f) Title 5, Code of Federal Regulations, Part 752
- (g) DoD Directive 1200.7, "Screening the Ready Reserve," April 6, 1984
- (h) DoD Instruction 7730.19, "Reporting of Dependents of Active Duty Military Personnel and U.S. Citizen Employees," March 22, 1988
- (i) DoD Instruction 7730.58, "Reports on Personnel Distributions by Country or Other Specific Location," September 26, 1983

The planning and preparedness responsibilities assigned by references (a) through (d) and discussed in Part 1 applies to management officials in overseas areas as well as to those in the Continental United States (CONUS). It is particularly important in overseas areas to develop, maintain, and exercise plans and procedures for rapid, efficient, and effective employment and deployment of the civilian workforce.

References (a) and (b) require that civilian workforce operations plans be established and maintained. These must include procedures to implement theater admission requirements and for required training, processing, and support to be provided to civilian employees who remain in, or deploy to, a theater of operations. While reference (a) clearly states management's authority to direct and assign civilian employees, either voluntarily or involuntarily, or on an unexpected basis, to accomplish the DoD mission, reference (b) provides further that management officials must ensure that all employees understand the contingency and emergency missions of DoD and the possible support each employee may be directed to provide to those missions.

It is extremely important in foreign areas to know the names, numbers, specific locations, and employment status of all employees. Reference (b) requires the Heads of DoD Components to establish such civilian workforce accountability procedures for U.S. citizens and foreign nationals hired directly or indirectly to

work for DoD, paid from appropriated or nonappropriated funds under permanent or temporary appointment. This includes employees filling full-time, part-time, intermittent, or on-call positions. Reference (b) requires further that Combatant Commanders include summaries of this information in their situation reports (SITREPs). In addition, references (h) and (i) establish reporting requirements for statistical information on the numbers of appropriated and nonappropriated fund civilian employees, foreign national direct and indirect hires, and family members of U.S. citizen employees. It is extremely important to know how many dependents have accompanied civilian employees to the foreign area. An employee who is a dependent of a civilian employee or military member may be required to depart the foreign area as a family member.

Emergency-Essential Employees

References:

- (a) DoD Directive 1404.10, "Emergency-Essential (E-E) DoD U.S. Citizen Civilian Employees," April 10, 1992
- (b) DoD Directive 1400.31, "DoD Civilian Work Force Contingency and Emergency Planning and Execution," April 28, 1995
- (c) Title 5, Code of Federal Regulations, Part 752
- (d) DoD Directive 1200.7, "Screening the Ready Reserve," April 6, 1984

Paramount among the responsibilities of overseas management officials is ensuring that civilian positions required for direct support to combat operations or to combat systems support functions are designated as Emergency-Essential and that employees are identified to perform the duties of those positions. Reference (a) prescribes the policies, assigns responsibilities, and specifies procedures for DoD's Emergency-Essential program.

Since it is DoD policy to limit the number of Emergency-Essential civilian positions to those specifically required to ensure the success of combat operations or the availability of combat-essential systems, management officials must exercise sound and careful judgment in making such decisions. While Emergency-Essential designations should be regularly reviewed and updated as part of each installation's operations plan, management officials have the authority, under reference (a), to designate additional positions as Emergency-Essential during a contingency or emergency when such positions are deemed critical to accomplishment of the military mission. Employees occupying those positions are asked to sign an Emergency-Essential agreement. Employees declining to do so must continue to perform the functions of the position, but are to be relocated out of the position as soon as reasonably practicable given the exigencies of the military situation. As discussed in reference (b), Emergency-Essential employees, as well as other employees involuntarily assigned to Emergency-Essential positions, may be separated from employment for the efficiency of the Federal service for failure to remain in an Emergency-Essential position or to relocate on temporary duty or permanent change of station to an Emergency-Essential position. Procedures specified in reference (c) are to be used for such separations. Management officials should obtain advice and guidance from their local human resources office when considering such actions.

Successful operation of the Emergency-Essential program requires that management officials regularly review both the designated positions and the employees assigned to them. Individuals with a military recall status are subject to mobilization. Therefore, if they occupy an Emergency-Essential position,

management officials must report their nonavailability for military mobilization promptly to the cognizant military personnel center so they may be removed from military recall status. The reporting procedures are specified in reference (d) and apply to Standby Reservists and retired military members as well as Ready Reservists. Of equal importance is the need to identify alternates to cover vacant Emergency-Essential positions or those whose incumbents are unable to perform the duties or have not signed the required position agreement.

Because Emergency-Essential employees make an extraordinary commitment to DoD, they are to be provided certain assurances of benefits and entitlements. These include evacuation of dependents from the crisis location with the same priority, services, and assistance as family members of military members; payment of any appropriate danger pay allowance as established by the State Department; issuance of Geneva Convention Identity Cards; payment of a separate maintenance allowance, when appropriate; treatment, equivalent to that received by active military personnel, for disease or injury sustained during hostilities at no cost under the DoD Military Health Services System; and protective equipment, work-related training, law of war training, and training in the Uniform Code of Military Justice commensurate with the anticipated threat and theater policy. Management officials should ensure that Emergency-Essential employees are fully aware of these benefits and entitlements.

Noncombatant Evacuation and Repatriation Operations

References:

- (a) Joint Publication 1-0, "Doctrine for Personnel Support to Joint Operations," November 19, 1998
- (b) Joint Publication 3-07.5, "Joint Tactics, Techniques, and Procedures for Noncombatant Evacuation Operations," September 30, 1997
- (c) DoD Directive 3025.14, "Protection and Evacuation of U.S. Citizens and Designated Aliens in Danger Areas Abroad (Short Title: Noncombatant Evacuation Operations)," November 5, 1990

Noncombatant evacuation is the ordered or authorized departure of civilian noncombatants and nonessential military personnel from overseas areas. In the event of imminent or actual hostilities, civil disturbances, or natural disaster, the State Department is responsible for the protection and evacuation of U.S. citizen noncombatants overseas. The DoD assists in evacuation decisions and supports the objectives as militarily feasible. During Noncombatant Evacuation Operations (NEO), the U.S. Ambassador is the senior authority for the evacuation and is ultimately responsible for the safety of noncombatant U.S. citizens and non-citizen nationals from areas of danger overseas to safe havens or to the United States. Repatriation is the process whereby American citizens and their families officially process back into the United States subsequent to an evacuation. The Secretary of the Army acts as the designated DoD Executive Agent for repatriation planning and operations. Repatriation services ensure evacuee well being and onward movement to their final destination.

The Secretary of State has the authority to halt movement of all U.S. citizens to any danger area abroad. By joint agreement, the Secretary of Defense has responsibility for developing NEO plans; stopping movement of U.S. military and DoD civilians and their family members to an area where deemed inadvisable (as delegated to the Principle Deputy Under Secretary of Defense (Personnel and Readiness)); assisting the State Department as requested in implementation of NEO plans; and repatriation of DoD noncombatants, with the Secretary of the Army serving as the DoD Executive Agent. Reference (a) explains in greater detail the broad NEO and repatriation authorities.

NEOs are primarily conducted where political concerns and constraints are key considerations. The Washington Liaison Group, chaired by a State Department representative and composed of representatives from DoD and other appropriate departments and agencies of the U.S. government, ensures national-level coordination of evacuation plans. Regional Liaison Groups ensure field coordination and provide advice and guidance in planning and executing NEOs.

The Emergency Action Committee is the focal point for the State Department and DoD evacuation site interface. An evacuation normally starts with the Embassy emergency action plan (EAP). The EAP represents a common foundation of understanding of perspectives on the situation, mission, objectives, procedures, and exchange of information. The Ambassador is responsible for the preparation and maintenance of the EAP. Combatant Commanders are responsible for reviewing and commenting on EAPs with respect to the accurate and adequate support of military operations. The EAP provides details on evacuation sites; anticipated number of evacuees; assembly areas and major supply routes; transportation fleet, map products, command posts; key personnel; and descriptions of communications and logistics systems.

Understanding the basic notification phases of evacuation will help in implementing the evacuation plan. Drawdown phases are defined as authorized departure or ordered departure. The Ambassador must request authorized departure status from State. Employees and family members who wish to leave the post must obtain approval from the Ambassador. When an authorized departure is terminated, the official evacuees must return to the foreign duty assignment. The Ambassador may determine that a situation has deteriorated to a point that family members and certain employees should leave the post of duty for their safety. Ordered Departure is not optional; family members and employees will be issued orders to leave. When the ordered departure status is terminated, official evacuees must return to post. Evacuation phases of Stand Fast, Leave Commercial, Evacuation, and Embassy or Post Closing have specific connotations based on the decision to evacuate personnel. Reference (b) explains extensively the roles and responsibilities of the State Department, DoD, and other Federal agency representatives in each phase of contingency and pre-deployment planning, evacuation operations and processing, and staging and safe haven operations. Because the accountability for all evacuees is so important, repatriation processing centers must collect valid personnel data on evacuees as specified in reference (c).

Management officials must ensure that civilian employees assigned to foreign areas are ready for an evacuation or for participation in a contingency or emergency operation. To ensure that personal details are known, the employee's spouse or another person should have access to personal documents, such as passports, birth certificates, marriage licenses, wills, real estate documentation, deeds, titles, automobile documentation, all insurance policies, banking records, tax records, credit records, and any other important papers concerning business transactions to which the employee may not be able to attend. Managers must ensure that employees periodically assess these personal documents to assure that supervisors are knowledgeable of whom to contact so personal transactions will continue without interruption while employees are performing essential duties or are involved in an evacuation.

Travel and Transportation

References:

- (a) Joint Publication 1-0, "Doctrine for Personnel Support to Joint Operations," November 19, 1998
- (b) DoD Directive 3025.14, "Protection and Evacuation of U.S. Citizens and Designated Aliens in Danger Areas Abroad (Short Title: Noncombatant Evacuation Operations)," November 5, 1990
- (c) Joint Publication 3-07.5, "Joint Tactics, Techniques, and Procedures for Noncombatant Evacuation Operations," September 30, 1997
- (d) Section 5725 of title 5, United States Code
- (e) Department of State Standardized Regulations (DSSR), Government Civilians, Foreign Areas, Chapter 600
- (f) Joint Travel Regulation, Volume 2, DoD Civilian Personnel, Consolidated Reprint Including Through Change 406, August 1999
- (g) DoD Instruction 1400.11, "Payments to Civilian Employees and Their Dependents During an Evacuation," February 8, 1980

Employees recruited in the United States for duty assignments in overseas areas may serve under a transportation agreement and may be reimbursed for their travel and transportation to and from overseas duty stations. They may also be reimbursed for travel and transportation expenses incurred in connection with changes of duty station from one overseas location to another. During contingencies and emergencies, these employees, as well as employees not serving under transportation agreements, and/or their family members may be evacuated from the overseas duty station. In such cases, specific policies and procedures apply.

As discussed in references (a), (b), and (c), each United States Embassy and Consulate has an Emergency Action Plan (EAP) for its areas of responsibility (AOR). When necessary, the Ambassador or Consular must request authority to invoke the EAP from the State Department, Chief of Diplomatic Mission, or Principal Officer of the State Department. In support of the EAP, the DoD military commander in the AOR will coordinate on the EAP to ensure that the plan is adequate and sufficiently up to date to support military operations. The EAP provides details on such topics as travel and transportation logistics, geographical sites and routes for evacuation, and accountability and anticipated numbers of evacuees. In an evacuation, the Secretary of State issues an evacuation order and, if necessary, designates a safe haven location. Ideally, the safe haven will be in the United States, but a temporary or intermediate safe haven may sometimes be designated outside the United States.

It is the intent of the State Department to use all forms of commercial transportation (air, sea, and land) to the maximum extent possible to minimize dependence on military assistance. However, the gravity of the situation may require the assistance of the appropriate military commander for evacuation purposes. In these situations, as provided by reference (a), the commander will seek authorization before employment of forces for the evacuation, except in immediate lifesaving circumstances.

References (d) through (f) authorize travel at government expense under an evacuation order for employees and their dependents. When the United States is the designated safe haven, the employee is authorized travel only to Washington, D.C., or a designated U.S. duty station. Family members may travel to the approved home leave point or any other place in the continental United States. The amount of reimbursement is based on the size of the family and ages of dependent family members. Reimbursement for travel expenses is limited to one departure per evacuation order per evacuee. In an evacuation order, special allowances are provided for travel, including special education travel for dependents that are not at the duty station during the evacuation. Per diem and a subsistence expense allowance are authorized, based on the safe haven per diem rate. Delivery of household goods from storage and return to storage, shipment of privately owned vehicle, and temporary quarters subsistence expense allowances are not authorized at government expense. Allowances for air freight and local transportation may be authorized, but there are limitations on the reimbursable amount and/or length of time reimbursement may be authorized. References (e) and (f) provide details on these matters.

Depending on the type of evacuation order, employees and family members may return to the permanent duty station or be assigned from their safe haven location to another permanent duty station. If it is known at the time of evacuation that the employee will not return to the foreign permanent duty station, permanent change of station travel is authorized to the new permanent duty station.

Heads of DoD Components, or their designees, determine evacuation payments to civilian employees and their dependents in accordance with references (d) and (g). Management officials should contact their supporting human resources office for assistance in determining travel and transportation entitlements for employees and family members.

Staffing Options

Reference:

- (a) DoD 1400.25-M, "DoD Civilian Personnel Manual," December 1996, Subchapter (SC) 1231, "Employment of Foreign Nationals"
- (b) DoD Directive 1400.6, "DoD Civilian Employees in Overseas Areas," February 15, 1980
- (c) DoD Instruction 1400.23, "Employment of Family Members of Active Duty Military Members and Civilian Employees Stationed in Foreign Areas," May 12, 1989
- (d) DoD Directive 1400.31, "DoD Civilian Work Force Contingency and Emergency Planning and Execution," April 28, 1995
- (e) DoD Instruction 1400.32, "DoD Civilian Work Force Contingency and Emergency Planning Guidelines and Procedures," April 24, 1995
- (f) DoD Directive 1404.10, "Emergency-Essential (E-E) DoD U.S. Citizen Civilian Employees," April 10, 1992
- (g) DoD Directive 1100.4, "Guidance for Manpower Programs," August 20, 1954
- (h) DoD Directive 1100.18, "Wartime Manpower Mobilization Planning," January 31, 1986
- (i) DoD Instruction 1100.19, "Wartime Manpower Mobilization Planning Policies and Procedures," February 20, 1986
- (j) Joint Publication 4-05, "Joint Doctrine for Mobilization Planning," June 22, 1995

Plans for utilization of the DoD civilian workforce in contingency and emergency operations are established and constantly reviewed as mission requirements change and the makeup of the civilian workforce changes. In foreign areas, these plans are more complex in that managers must be familiar with local national employment programs, the DoD program for the rotation of U.S. citizen civilian employees, and the DoD program for employment of family members in foreign areas. Even so, employees in positions not previously identified as essential may be lost due to the evacuation of family members; civilian employees may be called to active duty; the host nation agreement may not authorize the retention of local national employees in contingency or emergency operations; and U.S. citizen civilians may depart the foreign area after notification that their skills are required. To assure continuance of essential support for the operation, familiarity with staffing options is essential.

The hiring flexibilities outlined in Part One of this Guide apply to the foreign area as well. However, in foreign areas, U.S. citizens may not be readily available to fill positions requiring critical skills, and there are eligibility restrictions on the

employment of U.S. citizens who are ordinarily resident in a foreign area. As a result, managers in foreign areas typically recruit foreign national employees under the terms of pre-established host nation agreements. (Foreign national employment systems are outlined in reference (a).) A copy of the employment plan for the host nation of assignment should be retained at the activity's staff judge advocate office and at the Combatant Command Headquarters. It is important to know if foreign national employees may be utilized and if there are any limitations on employment during contingency or emergency situations. Knowledge of the host nation agreement and the command program for employment of local national civilians is essential to assure that support services will continue during any phase of an evacuation.

Recruitment for a U.S. citizen designated position consists of recruiting civilians who have specialized administrative and technical skills from the United States for mid- and higher-level graded positions. Reference (b) explains the DoD policy on the civilian recruitment and rotation process. Locally available and qualified U.S. citizen family members may be recruited when the terms of the host nation agreement permit the hiring of locally available U.S. citizens. Policy limitations are explained in reference (c). Much of the U.S. civilian workforce will rotate on a pre-established date from the foreign area in compliance with the DoD program for Rotation of Civilian Employees in Foreign Areas or because they are family members employed under the DoD Program for Employment of Family Members rotating when their military or civilian sponsor leave the area. Thus, in the foreign area, a manager's staffing options require close attention to the constant turnover in U.S. designated positions, tracking tours of duty, and ensuring that emergency-essential designated position vacancies are filled in a timely manner.

References (d) and (e) establish policy and identify the critical factors in DoD Component plans to assure a well-informed, well-prepared, well-protected, and well-trained civilian workforce. DoD Component plans for the employment and deployment of the civilian workforce address multiple staffing arrangements, such as an installation staffing plan for methodologies to accomplish recruitment, directed assignment of the U.S. citizen civilian workforce, local national employment, and local contracted services, to ensure rapid, effective, and efficient operational support. In connection with Component employment and deployment plans, managers must plan for the optimum utilization of the foreign area civilian workforce. Managers have the authority to direct the retention and assignment of U.S. citizen employees in support of the mission as indicated in reference (f). References (g) through (j) provide authority for civilian manpower demand determinations and civilian manpower supply planning. These publications are useful in making determinations on how continuation of civilian employee services may be met at a time of mobilization in foreign areas.

Allowances and Differentials

References:

- (a) Department of State Standardized Regulations (DSSR), Government Civilians, Foreign Areas
- (b) DoD 1400.25-M, “DoD Civilian Personnel Manual,” December 1996, Subchapter (SC) 1250
- (c) DoD 7000.14-R, Financial Management Regulation, Volume 8, Civilian Pay Policy and Procedures, August 1999
- (d) DoD Directive 3025.14, “Protection and Evacuation of U.S. Citizens and Designated Aliens in Danger Areas Abroad (Short Title: Noncombatant Evacuation Operations),” November 5, 1990
- (e) Section 5522 of title 5, United States Code

Civilian employees recruited from the United States for duty in foreign areas receive allowances and differentials in accordance with references (a) and (b). These allowances and differentials may be affected during contingencies and emergencies, particularly when there is an ordered or authorized departure from the overseas duty station.

Civilian employees evacuating from foreign areas receive allowances based on their condition of employment in the foreign area. Family members receive allowances derived from their sponsor’s entitlement. Entitlement to allowances or differentials will differ if the employee is evacuated as nonessential or retained as essential. Employees eligible to receive allowances are generally recruited from the United States under an employment and transportation agreement establishing the entitlement. The allowances received are based on the specific foreign area of assignment.

Under the provisions of references (a) through (c), eligible employees receive a living quarters allowance (LQA) and may receive a temporary quarters subsistence allowance, post allowance, post “hardship” differential, danger pay, imminent danger pay, or hostile fire pay depending on the foreign area of assignment. (As stated in Part One of this Guide, employees are not eligible for hostile fire pay if they are receiving a post differential for exposure to political violence or receiving a danger pay allowance.) If the employee and family are ordered or authorized to depart, the employee’s allowances terminate when the employee departs the foreign area. LQA may continue if the employee is required to pay for quarters or if lease termination is impossible or impracticable. When the employee remains in the foreign area but the family is ordered or authorized to depart, the employee’s allowances are reduced to the “employee without family” rate, as provided by

reference (a). LQA may be continued at the “with family” rate for a period not to exceed six months.

Allowances granted in accordance with reference (a) continue during periods of non-pay status not in excess of 14 calendar days. The LQA of members of the Reserve Component who enter Leave Without Pay – Uniformed Services (LWOP-US) when called to active duty is suspended as of the day the employee enters the LWOP-US status unless the grant of LQA is specifically extended under the LQA continuance of grant provisions for employees in non-pay status as defined in reference (a). An employee on active duty assigned to the overseas area receives overseas allowance entitlements as a military member. Post Differential and Danger Pay Allowances are suspended while employees are in non-pay status.

The evacuation payment process does not cover employees and dependents that are traveling to a new foreign assignment where an evacuation order is in effect. When an ordered or authorized departure is in effect and employees and dependents are precluded from traveling to the new foreign area duty station, they may be eligible for the equivalent of payment of allowances in accordance with references (a) and (d). If an essential employee is required to proceed to the foreign area duty station that is under an ordered or authorized departure, dependents who would normally accompany the employee may be eligible for a mandatory separate maintenance allowance under reference (a) effective the date the employee begins official travel under assignment orders.

Reference (e) authorizes the head of each agency to make advance payments of pay, allowances, and differentials, or any portion of them, to an employee whose departure is ordered or authorized. Such payments may not cover a period of more than thirty days. Within the Department of Defense, references (b) and (c) address these advance payments.

Employees in certain areas may receive danger pay, imminent danger pay (IDP), or a post “hardship” differential. Post “hardship” differential may include an amount attributed to political violence in the area. When a danger pay allowance becomes effective in an area where a portion of the post “hardship” differential is attributed to political violence, the post “hardship” differential is reduced while danger pay is in effect. The IDP is an allowance that may be granted to civilian employees who accompany U.S. military forces. Approval of the IDP for DoD civilian employees is conditioned on notifying the State Department of the DoD-designated locations where military members receive IDP. The Department of State must approve and authorize the IDP to assure that there is no duplication of the danger element in danger pay or post “hardship” differential. No foreign area location is designated as both a danger pay and imminent danger pay area. IDP is not paid for the period of time that an employee receives either danger pay or post

“hardship” differential that would duplicate political violence credit. Reference (a) provides details on this matter.

Questions relating to the payment of allowances and differentials should be directed to the supporting human resources office.

Foreign National Employees

Reference:

- (a) DoD 1400.25-M, "DoD Civilian Personnel Manual," December 1996, Subchapter (SC) 1231

Reference (a) implements DoD policy and prescribes procedures and delegations for the employment of foreign national employees in foreign areas. Negotiation of basic arrangements with the host government is the responsibility of the State Department, with guidance and technical advice provided by DoD. The treaties or agreements negotiated at diplomatic levels are usually written in broad terms. Consistent with these formal agreements negotiated with host countries, and with DoD family member hiring policies, it is DoD policy to employ foreign nationals as extensively as possible.

DoD uses two categories of foreign national employment systems. These are Direct Hire, where employees are hired directly by the U.S. Forces as employees of the U.S. Government, and Indirect Hire, where the personnel are employees of the host government and are assigned to work with the U.S. Forces on a reimbursable cost or other financial basis. Regardless of the type of employment system used, foreign national employees are critical to the successful accomplishment of DoD's mission during contingencies and emergencies.

The basic agreement or treaty with the host government provides general terms of reference for a more detailed operating agreement or arrangement. Reference (a) requires that these subsidiary agreements provide as complete and detailed coverage of all aspects of the management and administration of foreign national personnel as the U.S. laws and local situation permit. They typically cover such areas as responsibility for recruitment, security measures, priority accorded U.S. Forces in the labor market, host government control on personnel requirements, importation of workers, employment conditions, employee compensation, complaints, and labor-management relations. During contingencies and emergencies, these agreements and any applicable local national personnel regulations provide the guidance that must be relied upon in dealing with the foreign national workforce. Management officials should contact their supporting human resources office for advice and interpretation of these documents.

Contractor Employees

References:

- (a) DoD Instruction 3020.37, "Continuation of Essential DoD Contractor Services During Crises," November 6, 1990
- (b) DoD Instruction 1000.1, "Identity Cards Required by the Geneva Conventions," January 30, 1974
- (c) DoD Directive 1200.7, "Screening the Ready Reserve," April 6, 1984
- (d) DoD Directive 1352.1, "Management and Mobilization of Regular and Reserve Retired Military Members," March 2, 1990

Reference (a) requires that the DoD Components rely on the most effective mix of military, civilian, host-nation, and contract resources necessary to fulfill assigned peacetime and wartime missions. Contractors providing services designated as essential are expected to use all means at their disposal to continue to provide such services in accordance with the terms and conditions of the contract during periods of crisis. Management officials should contact their local contracting office or Contract Officer representative on contractor issues involving contracts and to work with the contractors to develop and implement plans and procedures to provide reasonable assurance of the continuation of essential services. Cognizant Component Commanders who have a reasonable doubt about continuation of services by a contractor are to prepare a contingency plan for obtaining those services from alternate sources such as military, DoD civilian, host-nation, or other contractor(s), in accordance with reference (a).

Management officials involved with obtaining services from contractors have a number of continuing responsibilities that are critical to the successful accomplishment of DoD's mission during crises. They must ensure that all contractor services are reviewed, at least annually, to determine which services will be essential during crisis situations. They must also conduct an annual assessment of the unanticipated or premature loss of essential contractor services on the effectiveness of support to mobilizing and deployed forces. The results of these assessments must be included in relevant portions of the affected contingency and/or operations, consistent with JCS planning guidance.

Reference (a) also prescribes planning procedures for essential services for DoD Component activities using contractor services in peacetime. Management officials should be particularly aware of the following requirements and ensure that regular reviews and updates are accomplished:

- Identify services designated as mission essential in the contract statement of work (SOW).

- Maintain, in a current status, the following information:
 - The generic description of the essential contractor service.
 - The name, address, and telephone number of the contractor performing the essential service.
 - The name, address, and telephone number of the in-country contact for the DoD activity using the essential service.
 - The number of contractor employees and equivalent work-years required to perform the essential service.
 - The number of dependents of designated-essential contractor employees to be included in noncombatant evacuation planning.
- Issue Geneva Convention identity cards in accordance with reference (b).
- Determine prior to contract award or extension whether an interruption of service would result in an unacceptable risk. If so, develop a contingency plan to ensure continued service.
- Include provisions in operations or contingency plans to assume or supplement contractor-supplied essential services at the earliest opportunity, when military members, DoD civilians, or host-nation resources can be identified to perform the services. Make the contractor aware of such replacement and transition plans.
- Ensure that the contract SOW requires the development of contractor contingency plans to provide reasonable assurance of continuation during crisis conditions.
- Establish administrative controls to ensure that all information on essential contractor employees is handled as sensitive data and released only to authorized personnel
- Ensure that contractors providing essential services identify their employees having military mobilization recall commitments and have adequate plans for replacing those employees in the event of mobilization, in accordance with references (c) and (d).
- Ensure that information on contractor employee benefits due to war exigencies is fully developed and provided in writing to all affected contractor employees.